

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SHELBY LEE PATTERSON,

Plaintiff(s),

vs.

THE ARTHUR WELLS GROUP, et al.,

Defendant(s).

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Case No. 4:06CV556 JCH

**MEMORANDUM AND ORDER**

This matter is before the Court upon Defendant The Arthur Wells Group's ("Arthur Wells") Motion to Dismiss Plaintiff's Second Amended Complaint, filed August 23, 2006. (Doc. No. 28). The matter is fully briefed and ready for disposition.

By way of background, Plaintiff filed his Second Amended Complaint in this matter on July 17, 2006. (Doc. No. 23). In his Second Amended Complaint, Plaintiff named as Defendants Arthur Wells, and EFPP, LLC. (Id.).

In its Motion to Dismiss, Defendant Arthur Wells maintains it must be dismissed as a Defendant, because Arthur Wells never employed Plaintiff. (Memorandum in Support of Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint, P. 2). Arthur Wells asserts it was Defendant EFPP, LLC, and not its parent company Arthur Wells, who both employed Plaintiff and made the decision to terminate his employment. (Id.). As support for its motion, Arthur Wells attaches the affidavit of Lisa Wilken, Director of Human Resources for Defendant Arthur Wells. (Defendant's Exh. A).<sup>1</sup>

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<sup>1</sup> Because it has considered documents outside the pleadings, the Court treats this motion as one for summary judgment pursuant to Fed. R. Civ. P. 56.

Upon consideration, the Court will grant Arthur Wells' motion. The Court notes that Plaintiff's Earnings Statements, submitted by Plaintiff himself, list EFPP, LLC, as his employer. (See, e.g., Plaintiff's Exhs. B, C, Doc. No. 3, PP. 2, 3). The Court therefore will dismiss Arthur Wells as a Defendant in this matter.<sup>2</sup>

Accordingly,

**IT IS HEREBY ORDERED** that Defendant The Arthur Wells Group's Motion to Dismiss Plaintiff's Second Amended Complaint (Doc. No. 28) is **GRANTED**, and Arthur Wells is **DISMISSED** as a Defendant in this matter.

Dated this 29th day of September, 2006.

/s/ Jean C. Hamilton  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Plaintiff's lawsuit will continue against the sole remaining Defendant, EFPP, LLC.